

REMARKS/ARGUMENTS

Reconsideration is requested. Responsive to the Final Office Action of October 13, 2006, the Examiner's comments and the cited art have been noted and studied. For reasons to be set forth in detail below, it is respectfully submitted that the present application is in condition for allowance, and such action is requested.

Independent claims 1 and 11 have been amended to clarify the recited subject matter by reciting that the immobilization is a "locked" immobilization (see, for example, paragraphs 0019, 0030 and 0031 of the original disclosure). In addition, independent claims 1 and 11 have been amended to state that the locked immobilization includes "locked immobilization of longitudinal movement of the pressure tip within the housing" (see, for example, paragraph 0024 and FIGs. 3A-3E of the original disclosure).

It is respectfully submitted that the amendments above are supported by the specification, claims, abstract of the disclosure, and drawings as originally filed, and that no new matter has been added.

Claim Rejections under 35 U.S.C. §102

The subject matter of claims 1, 2, 5, and 10 through 13 was rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent Application Publication No. 2004/0215224 by Sakata et al. (hereinafter "Sakata").

Sakata, as understood, describes a lancing apparatus that employs a pump to create a negative pressure within the lancing device. This negative pressure creates a skin bulge that comes into contact with an analysis sensor held by a sensor holder (see, for example, paragraphs 0081 and 0111 of Sakata). The skin bulge pushes against the analysis sensor until a predetermined analysis sensor angle (inclination) is achieved, at which point further change in the sensor angle is restrained (see, for example, paragraphs 0110 and 0111 and FIG. 19 of Sakata). Therefore, the lancing apparatus of Sakata is configured to restrain sensor angle.

The Final Office Action contends that pressure tip of Sakata is "immobilized" when a bulging force and a spring are in equilibrium (see section 18 of the Final Office Action). Applicant respectfully submits that such an equilibrium would be understood by one of skill in the art as distinct from the presently recited "locked immobilization," as such an equilibrium is the result of a simple balancing of forces and not a mechanically "locked immobilization." To

illustrate that an equilibrium is not a locked immobilization, Applicant notes (as is also noted in the final sentence of paragraph 0018 of the Final Office Action) that a change in pressure within the pressure tip of Sakata would disrupt the equilibrium state.

Independent claims 1 and 11, as amended, each recite a trigger mechanism that triggers a “locked immobilization” of a pressure tip. As discussed above, such a locked immobilization is not described, taught or suggested by Sakata. The benefits of a locked immobilization include the prevention of changes to the target site bulge location relative to the housing (see, for example, paragraphs 0019 and 0031 of the disclosure) following the triggering of such locked immobilization.

Independent claims 1 and 11, as amended, also recite that the locked immobilization includes “locked immobilization of longitudinal movement of the pressure tip within the housing.” In contrast, Sakata teaches only angular restraint of a sensor.

For at least the foregoing reasons, Applicant respectfully submits that amended independent claims 1 and 11 are novel and not obvious over Sakata. Since claims 2, 5, 10, 12 and 13 depend from and further limit their respective independent claims, they are allowable for at least the same reasons.

Claim Rejections under 35 U.S.C. §103

The subject matter of claims 3 and 4 was rejected under 35 U.S.C. §103(a) as obvious over Sakata in view of U.S. Patent No. 6,589,260 to Schmelzeisen-Redeker et al. (hereinafter (hereinafter “Schmelzeisen-Redeker”).

Schmelzeisen-Redeker appears to describe an integrated system for skin perforation and subsequent blood withdrawal (see, for example, col. 7, lines 37-39 of Schmelzeisen-Redeker). Schmelzeisen-Redeker was cited in the Office Action for teachings related to spring force of a compression unit adjustable spring. However, Schmelzeisen-Redeker does not cure the deficiencies of Sakata described above. For at least this reason, Applicant respectfully submits that dependent claims 3 and 4 are not obvious over the cited combination of Sakata and Schmelzeisen-Redeker and are allowable under 35 U.S.C. §103.

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The subject matter of dependent claim 6 was rejected under 35 U.S.C. §103(a) as obvious over Sakata in view of U.S. Patent Publication No. 2005/0038465 to Shruga (hereinafter "Shruga").

Shruga, as understood, describes a system for maintaining a depth setting that includes an undulating ratchet surface and a groove (see, for example, paragraph 0124 of Shruga) and was cited in the Office Action for teachings related to ratchet teeth. However, Shruga does not cure the deficiencies of Sakata described above. For at least this reason, Applicant respectfully submits that dependent claim 6 is not obvious over the cited combination of Sakata and Shruga and is allowable under 35 U.S.C. §103.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance and applicants earnestly solicit early examination on the merits and issuance of a Notice of Allowance. Should the Examiner believe that any additional information or amendment is necessary to place the application in condition for allowed, he is urged to contact the undersigned Attorney via telephone at 408 956-4790, or facsimile number 408 956-4404.

The Commissioner is hereby authorized to charge any required fees due in connection with this submission, including petition and extension of time fees, and to credit any overpayment to Deposit Account No. 10-0750 (Docket No. LFS5016USNP/MM) (Johnson & Johnson).

Respectfully submitted,

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